

OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Civil Supplies &
Consumer Affairs

Notification

1/3/2005-CSD

In exercise of the powers conferred by section 30A of the Consumer Protection Act, 1986 (68 of 1986), the Notification No. G.S.R. 342(E) dated 31-5-2005 issued by the National Consumer Disputes Redressal Commission, New Delhi, published in the Gazette of India, Part-II, section 3, sub-section (i) (Extraordinary) dated 31-5-2005 is hereby re-published for general information of the public.

By order and in the name of the Governor of Goa.

Ashok N. P. Dessai, Director of Civil Supplies and Consumer Affairs and ex officio Jt. Secretary.

Panaji, 1st August, 2005.

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Notification

New, Delhi, the 31st May, 2005

G.S.R. 342(E).— In exercise of the powers conferred by section 30A of the Consumer Protection Act, 1986 (68 of 1986), the National

Consumer Disputes Redressal Commission with the previous approval of the Central Government, hereby makes the following regulations, namely:—

1. *Short title and commencement.*— (1) These regulations may be called the Consumer Protection Regulations, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*— In these regulations unless the context otherwise requires,—

(a) "Act" means the Consumer Protection Act, 1986 (68 of 1986);

(b) "Consumer Forum" means a District Forum, a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9 (hereafter called the State Commission) or the National Consumer Disputes Redressal Commission;

(c) "Registrar" means the head of the ministerial establishment of the Consumer Forum and exercising such powers and functions as are conferred upon him by the President of the Consumer Forum;

(d) "rules" means the rules made under the Act;

(e) "section" means a section of the Act;

(f) words and expressions used in these regulations and not defined herein but defined either in the Act or in the rules shall have the

same meaning respectively assigned to them either in the Act or in the rules, as the case may be.

3. Arrangements in Consumer Forum.— (1) A Consumer Forum, being not a regular court, shall have the arrangements as to depict it distinct from a court.

(2) In the hall in which the Consumer Forum shall hear the parties, the dais may not be kept more than 30 cm. in height than the place earmarked for the parties to occupy.

(3) At the dais of the hall, the President and the members of the Consumer Forum shall use the same type of chairs at the same level and these chairs need not have high backs.

4. Dress code.— (1) The President and members of every Consumer Forum while presiding over the Bench, —

(a) shall wear simple and sober dress;

(b) shall not wear—

(i) flashy dress or dress display any affluence;

(ii) Jeans or T-shirts;

(iii) as if they are holding Courts as Judges of a High Court or a District Court.

(2) The advocates shall be allowed to appear in the usual dress as prescribed by the High Court but without the gown.

5. Hearing hours.— Subject to the provisions of the rules, the normal working hours of the Consumer Forum for hearing matters shall be from 10.30 a.m. to 1.00 p.m. and 2.00 p.m. to 4.00 p.m. on all working days of the Central Government in the case of the National Commission and on all working days of the State Government in the case of the State Commission and the District Forum.

6. Cause List.— (1) Cause list of the Consumer Forum for the following entire week shall be made ready before the close of the working hours of the preceding week and displayed on the notice board. The cause list in respect of a Consumer Forum having a website shall also be hosted on the website.

(2) Cause list shall be split into three different parts, namely:—

(i) Admission and after notice matters;

(ii) Matters where evidence is to be recorded;

(iii) Final disposal matters.

(3) Every cause list shall contain the following particulars, namely:—

Sl. No.	No. of the matter	Names of the parties	Name of the party or Counsel or agent appearing
1	2	3	4

(4) If a date of hearing is given in the presence of parties or their agents, it shall not be a ground for non-appearance for the reason that the cause list for the concerned date does not show the matter or contains incorrect entry or there is omission of the particulars of the matter.

7. Institution of complaints, appeals and revision petitions.— (1) Where a complaint is filed in District Forum or State Commission it shall be filed in three sets and where it is filed in the National Commission it shall be filed in four sets with additional sets equal to the number of opposite party(ies) respondent(s).

(2) Every complaint shall clearly contain particulars of dispute and the relief claimed and shall also be accompanied by copies of such documents as are necessary to prove the claim made in the complaint.

8. Nomenclature to be given to the complaints, appeals and revisions petitions.— (1) A complaint shall hereinafter be referred to as Consumer Complaint (C.C.) instead of O.P., e.g., C.C. No. 2 of 2005.

(2) An appeal shall be referred to as F.A., Revision Petition as R. P., Execution Application as E.A, Transfer Application T. A. and Review as RA containing the number and the year of filing.

9. Scrutiny of complaint, appeal, petition and revision petition.— (1) Every complaint, appeal, or revision petition shall after it is filed be numbered by the Registrar.

(2) If there is any defect in the filing of the complaint, appeal or revision petition, the particulars of such defects shall be recorded and the party or his agents shall be informed of the defects asking them for removing the defects within 15 days.

(3) In case the party disputes in the correctness of the defects pointed out the matter shall be placed before the Consumer Forum for appropriate orders.

(4) After the expiry of the time given, the matter shall, irrespective of the fact as to whether the defects have been removed or not, be placed before the Consumer Forum for appropriate orders.

(5) If the objections raised by the Registrar are substantial and are not removed within the time allowed for the purpose, those days shall not be excluded for counting the period of limitation.

(6) As required by the second proviso to sub-section (3) of section 12, the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

(7) In case any defect is pointed out by the Registrar, twenty-one days from the date on which such defect was removed shall be reckoned for the purpose of sub-regulation (5).

(8) All pending complaints, appeals and revision petitions which have not come up for admission till the date of commencement of these regulations and are pending for admission for more than 21 days shall be listed immediately by the Consumer Forum for admission and not later than 21 days from the date of commencement of these regulations.

10. *Issue of notice.*— (1) Whenever the Consumer Forum directs the issuance of a notice in respect of a complaint, appeal or revision petition as the case may be, to the opposite party(ies)/respondent(s), ordinarily such notice shall be issued for a period of 30 days and depending upon the circumstances of each case even for less than 30 days.

(2) When there is a question of raising presumption of service, 30 days notice shall be required.

(3) Whenever notices are sought to be effected by a courier service, it shall be ascertained that the courier is of repute.

(4) While appointing the courier for the purpose of effecting service, security deposit may also be taken.

(5) Along with the notice, copies of the complaint, memorandum of grounds of appeal,

petitions as the case may be and other documents filed shall be served upon the opposite party(ies) /respondent(s).

(6) After the opposite party or respondent has put in appearance, no application or document shall be received by the Registrar unless it bears an endorsement that a copy thereof has been served upon the other side.

11. *Adjournment.*— (1) Every proceeding before a Consumer Forum shall be conducted as expeditiously as possible and as per the requirements of the Act.

(2) The Consumer Forum shall record the reasons for any adjournment made by it.

(3) The cost of adjournment, if asked by the opposite party or parties, shall not be less than five hundred rupees per adjournment and could be more depending upon the value and nature of the complaint as may be decided by the Consumer Forum.

(4) The complainant, appellant or petitioner, as the case may be, may also be burdened with cost unless sufficient cause is shown for seeking adjournment:

Provided that in the circumstances of a particular case, the amount of cost imposed may be less than five hundred rupees but in no case less than one hundred rupees.

(5) The cost imposed may be given to the other party or parties to defray his or their expenses or be deposited in the Consumer Legal Aid Account to be maintained by the respective Consumer Forum, as the Consumer Forum may order.

(6) If any adjournment is granted without awarding cost, the order sheet shall mention the reasons thereof.

(7) All orders adjourning the matter shall be signed by the President and members constituting the Bench and not by the Court Master or Bench Clerk.

(8) Non-availability of a lawyer who is representing the party shall not be a ground for seeking adjournment of the matter unless absence is beyond the control of the lawyer such as his sudden illness or bereavement in the family.

12. *Hearing by Benches.*— Where a Bench, constituted by the President of the State Commission or the National Commission as provided under section 16 or section 20, as the case may be, does not have a member with judicial background and any complex question of law arises and there is no precedent to decide the law point, the Bench so constituted may refer the matter to the President of the State Commission or the National Commission as the case may be to constitute another Bench of which the President shall be a member.

13. *Arguments.*— (1) Arguments should be as brief as possible and to the point at issue.

(2) Where a party is represented by a counsel, it shall be mandatory to file a brief of written arguments two days before the matter is fixed for arguments.

(3) In case of default to file briefs, the cost shall be imposed at the same rates as laid down for grant of adjournments.

14. *Limitation.*— (1) Subject to the provisions of sections 15, 19 and 24A, the period of limitation in the following matters shall be as follows:—

(i) Revision Petition shall be filed within 90 days from the date of the order or the date of receipt of the order as the case may be;

(ii) Application for setting aside the *ex-parte* order under section 22A or dismissal of the complaint in default shall be maintainable if filed within thirty days from the date of the order or date of receipt of the order, as the case may be;

(iii) An application for review under sub-section (2) of section 22 shall be filed to the National Commission within 30 days from the date of the order or receipt of the order, as the case may be;

(iv) The period of limitation for filing any application for which no period of limitation has been specified in the Act, the rules of these regulations shall be thirty days from the date of the cause of action or the date of knowledge.

(2) Subject to the provisions of the Act, the Consumer Forum may condone the delay in filing an application or a petition referred to in sub-regulation (1) if valid and sufficient reasons to its satisfaction are given.

15. *Review.*— (1) It shall set out clearly the grounds for review,

(2) Unless otherwise ordered by the National Commission, an application for review shall be disposed of by circulation without oral arguments, as far as practicable between the same members who had delivered the order sought to be reviewed.

16. *Appearance of Voluntary Consumer Organisations.*— (1) Recognised Consumer Organisations have a right of audience before the Consumer Forum

(2) An authorisation of a Voluntary Consumer Organisation may be by way of special power of attorney executed on a non-judicial paper or even on plain paper duly attested by a Gazetted Officer or a Notary Public.

(3) The Power of Attorney holder shall be entitled to engage a counsel, if authorised to do so.

(4) A Voluntary Consumer Organisation can engage a counsel or an advocate of its choice or it can itself represent through one of its office bearers as per the rules governing it.

(5) In case of a complaint where the Voluntary Consumer Organisation is a complainant along with the consumer himself and the dispute affects the complainant individually, he can withdraw the complaint:

Provided that if the issue involves unfair trade practice or restrictive trade practice a Voluntary Consumer Organisation may continue to proceed with the complaint even if the complainant wishes to withdraw the same.

(6) A Consumer Forum has to guard itself from touts and busybodies in the garb of power of attorney holders or authorised agents in the proceedings before it.

(7) While a Consumer Forum may permit an authorised agent to appear before it, but authorised agent shall not be one who has used this as a profession:

Provided that this sub-regulation shall not apply in case of advocates.

(8) An authorised agent may be debarred from appearing before a Consumer Forum if he is found

guilty of misconduct or any other malpractice at any time.

17. *Ex-parte interim order.*— Any *ex-parte* interim order issued by the Consumer Forum shall stand vacated after 45 days if in the meanwhile the objections to the interim order are not heard and disposed of.

18. *Final order.*— (1) An order on the top right hand corner shall show as to when the complaint was filed and the date of the order.

(2) The cause title of the order shall contain the names of all the parties with their addresses.

(3) In the body of the order it is desirable that after mentioning the complainant or the opposite party, their names as shown in the title be mentioned and parties thereafter may not be mentioned as complainant or opposite party No. 1 or opposite party No. 2, etc.

(4) The cause title shall also clearly show if the appellant or respondent was the complainant or opposite party.

(5) The order of a Consumer Forum disposing of a matter shall be as short and precise as practicable and unnecessary long quotations from the judgments of the higher courts or otherwise shall be avoided.

(6) When a copy of the order is sent to a party, the mode by which it is sent and the date on which it is sent shall be stamped on the last page of the order.

(7) The Consumer Forum shall pass final order invariably within fifteen days of the conclusion of the arguments.

19. *Return on institution and disposal of cases.*— (1) A Consumer Forum is expected to dispose of at least 75 to 100 matters every month.

(2) A periodic monthly return of institution and disposal of cases shall be sent by the District Forums to the State Commission.

(3) The State Commission shall submit a periodic monthly return of institution and disposal of cases to the National Commission.

(4) Notwithstanding anything contained in this regulation, the President of the National

Commission may, at any time, call for any return or information relating to its functioning from a State Commission or District Forums.

20. *Preservation of records.*— (1) In the case of complaint, the record containing main files with original order sheet shall be preserved for a period five years.

(2) In the case of records of first appeal and revision petitions, it shall be preserved for three years from the date of disposal of the appeal or revision as the case may be.

(3) Immediately after the consumer complaint, first appeal or revision petition, as the case may be, is disposed of, extra sets shall be given to the parties who may use the same for filing of appeal or revision petition and in that case the necessity to summon the record from the forums below can be dispensed with.

(4) The Registrar shall inform the parties while forwarding the certified copy of the final order, where they do not appear in person at the time of finally disposing of the matter to arrange to collect the extra sets.

(5) A period of at least one month shall be given for the purpose of collection of records by the party and in case of default the extra sets shall be weeded out.

21. *Certified copy.*— (1) A copy of the order is to be given to the parties free of cost as required under the Act and the rules made thereunder.

(2) In case a party requires an extra copy, it shall be issued to him duly certified by the Registry on a payment of Rs. 20/- irrespective of number of pages.

(3) A certified copy of an order shall clearly specify the date when free copy was issued, date of application, date when the copy was made ready and the date when it was so delivered to him.

(4) A fee of Rs. 20/- shall be paid for obtaining another certified copy.

(5) Any party desiring to get a certified copy of any document on the file of the Consumer Forum, may get the same on payment of certification fee of twenty rupees per copy. Provided that if any such document of which certified copy is sought,

is over and above 5 pages, an extra amount of one rupee per page shall be charged over and above the fee of twenty rupees.

(6) Certified copy of any miscellaneous order passed by the Consumer Forum shall be supplied on payment of Rs. 5 per copy.

22. *Inspection of records.*— Parties or their agents can inspect the records of any matter by filing an application on payment of ten rupees as fee.

23. *Filing of criminal complaint.*— Wherever a complaint is required to be filed by the Consumer Forum under sub-section (5) of section 13, the Consumer Forum may authorise its Registrar to file the complaint.

24. *Practice Directions.*— The National Commission shall be entitled to issue practice directions from time to time as may be necessary for the proper conduct of the cases before Consumer Forum including prescribing forms for complaints, notices, returns, certificate to be issued to the collector and the like.

25. *Paresha Yad-dast.*— Where a party appears in person and is illiterate, the Court Master or Bench Clerk shall give to that party the next date of hearing in writing.

26. *Miscellaneous.*— (1) In all proceedings before the Consumer Forum, endeavour shall be made by the parties and their counsel to avoid the use

of provisions of Code of Civil Procedure, 1908 (5 of 1908):

Provided that the provisions of the Code of Civil Procedure, 1908 may be applied which have been referred to in the Act or in the rules made thereunder.

(2) Every State Commission and every District Forum shall take steps for its computerisation and networking.

(3) The Consumer Forum shall give proper respect and courtesy to the parties who appear in person and shall provide separate accommodation in the Hall for the convenience of the parties.

(4) The Consumer Forum shall not insist upon the parties to engage advocates.

(5) The Fees collected for inspection of the documents and supply of certified copies shall be deposited in the account maintained for the purpose of depositing fee for filing a complaint as prescribed by the Central Government by rules.

(6) The cases filed by or against the senior citizens, physically challenged, widows and persons suffering from serious ailments shall be listed and disposed of on a priority basis.

[F. No. A-105/NCDRC/2005]

B. V. SHARMA, Jt. Registrar